

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

SALVATORE JULIANO SOWELL,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 2:23-cv-1683

Judge Edmund A. Sargus, Jr.

Magistrate Judge Karen L. Litkovitz

ORDER

This matter is before the Court on the January 10, 2025, Report and Recommendation issued by the Magistrate Judge. (R&R, ECF No. 46.) On November 9, 2023, the Magistrate Judge issued an Order and Report and Recommendation recommending dismissal of Plaintiff Salvatore Juliano Sowell's claims for lack of subject matter jurisdiction, or, in the alternative, for failure to state a claim. (ECF No. 25.) Plaintiff did not object, and this Court adopted and affirmed the Magistrate Judge's Order and Report and Recommendation. (ECF No. 27.) The Court dismissed Plaintiff's claims with prejudice (*id.*), and judgment was entered (ECF No. 28).

Plaintiff filed several post-judgment motions: Motion to Reopen Case (ECF No. 35), Motion for Leave of Court to have relief sought (ECF No. 37), Motion for Leave of Court to have relief sought (ECF No. 39), Motion for Leave to Proceed in forma pauperis (ECF No. 40), and Motion for Leave of Court for Case Reinstatement (ECF No. 41). The Magistrate Judge recommended that the Court deny each of these five motions. (ECF No. 42, PageID 201.) Plaintiff did not object, and this Court adopted and affirmed the Magistrate Judge's Report and Recommendation. (ECF No. 45.) The Court denied Plaintiff's various motions. (*Id.*)

Plaintiff filed two more post-judgment motions: an Express Waiver / Motion for Leave

(ECF No. 43) and a Motion for Relief (ECF No. 44). The Magistrate Judge construed the first motion as a motion for leave to amend the Complaint and recommended that the Court deny it because judgment has already been entered. (R&R, PageID 211.) The second motion contained various requests for relief, and the Magistrate Judge recommended that the Court deny it because the requests lack a legal basis for relief. (*Id.*, PageID 212.) The Magistrate Judge further recommended that the Court strike any future filings by Plaintiff as frivolous unless accompanied by an attorney's certification. (*Id.* (citing *Bell v. Mercy Hosp.*, No. 1:23-CV-212, 2023 WL 8788804, at *1 (S.D. Ohio Dec. 19, 2023) (McFarland, J.)).)

Once a magistrate judge issues a report and recommendation, the relevant statute provides:

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1). The failure to file written objections to a magistrate judge's report and recommendation waives a de novo determination by the district court of any issues addressed in the report and recommendation. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see also United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981).

Plaintiff was advised of his right to object to the Report and Recommendation and of the consequences of failing to do so. (R&R, PageID 213.) Plaintiff did not timely object to the Report and Recommendation, so he has waived a de novo determination of the issues. Plaintiff has filed several frivolous post-judgment motions without a legal basis for relief.

Accordingly, the Court **ADOPTS** and **AFFIRMS** the Report and Recommendation. (ECF No. 46.) The Court **DENIES** Plaintiff's Express Waiver / Motion for Leave (ECF No. 43) and Motion for Relief (ECF No. 44). The Court **ORDERS** Plaintiff to include with any future filings

a certification by an attorney stating that the matter is not frivolous. Otherwise, any future filings will be stricken as frivolous.

This case remains closed.

IT IS SO ORDERED.

2/24/2025
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE